

resulted in the term "canted upright fence post". The Applicant intended the language to recite a "canted fence post", and the amendment eliminates the term "upright" in this phrase. The preamble of claim 10 has further been amended to conform to the language of amended claim 1.

Turning now to claim 1, the preamble of claim 1 has been amended to clarify that the marine barrier system of the present invention inhibits movement of marine vehicles in a body of water across a barrier line. Claim 1 has also been amended to recite a fence system and a stabilizing system. Claim 1 has further been amended to specify that the main flotation member thereof comprises an elongate hollow member and buoyant material and that the buoyant material causes the entire marine barrier system to float. The Applicant respectfully submits that the cited references, taken alone or in combination, do not disclose, teach, or suggest the present invention as recited in claim 1.

Referring initially to the rejection of claims 1 and 5 based on U.S. Patent No. 3,638,430 to Smith, the Applicant respectfully submits that the Smith reference does not employ a fence system or a stabilizing system as recited in amended claim 1. Without a fence system, the Smith system would have little effectiveness at defining a barrier line across which movement of marine vehicles is substantially prevented. The Applicant respectfully submits that the amendments to claim 1 render moot the rejections of claims 1 and 5 based on the Smith '430 patent and requests withdrawal of these rejections.

The Applicant further respectfully submits that the amendments to claim 1 distinguish the invention recited therein over U.S. Patent No. 5,000,616 to Bell et al. In particular, claim 1 now recites flotation assemblies comprising hollow pipe and buoyant material. The Bell '616 patent discloses sections of lighter than water, pliable, closed cell material having weights attached thereto. These sections float partly above and partly below the water. Because of the pliability of these sections, the system described in the Bell '616 patent would not effectively define a barrier line as recited in claim 1. In contrast, the structure of the present invention employs an elongate hollow rigid pipe on which a separate fence system is mounted. The Applicant thus respectfully submits that the amendments to claim 1 render moot the

rejections of claims 1, 6, and 7 based on the Bell '616 patent and requests withdrawal of these rejections.

The Applicant further respectfully submits that the amendments to claim 1 distinguish the invention recited therein over U.S. Patent No. 4,783,563 to Clark. The amendments to claim 1 specify that the present invention recites flotation assemblies comprising hollow pipe and buoyant material and that the buoyant material causes the entire barrier system to float. The Clark '563 patent discloses a fence system for preventing marine life from entering a swimming area or the like. The fence system of the Clark '563 patent thus comprises an anchor chain that holds the fence to the bottom of the body of water. Floats midway up the fence posts maintain the fence in a generally upright condition under most water conditions. The marine barrier system of the Clark '563 patent thus does not float. The structure of the Clark '563 patent thus could not be used in deep water to prevent movement of marine surface vessels as recited in claim 1. The Applicant thus respectfully submits that the amendments to claim 1 render moot the rejections of claims 1-4 based on the Clark '563 patent and requests withdrawal of these rejections.

Referring now to the rejections under 35 USC § 103(a) based on the Bell '616 and Clark '563 patents, the Applicant respectfully submits that the secondary references used in these rejections do not meet the limitations of claim 1 missing from the base Bell '616 and '563 references as described above. The Applicant thus respectfully requests withdrawal of the rejections under 35 USC § 103(a) based on combinations based on the Bell '616 and Clark '563 patents.

Given the foregoing, the Applicant respectfully submits that the cited references, taken alone or in combination, do not disclose, teach, or suggest the present invention as recited in claim 1 or claims 5-14 which depend therefrom.

Submitted hereto as Exhibit A is a document entitled Listing of All Claims and Amendments (12-22-2004) containing a listing of the claims as currently presented. Exhibit A attached herewith contains the text of each pending claim, along with any amendments made hereby (illustrated using strikethrough and underlining) and the status of each pending claim.

Given the foregoing, the Applicant respectfully submits that currently pending claims 1 and 5-14 are in condition for allowance, and such allowance is respectfully requested. If there is any matter which could be expedited by consultation with the Applicant's attorney, such would be welcome. The Applicant's attorney can normally be reached at the telephone number below.

Signed at Bellingham, County of Whatcom, State of Washington this 22nd day of December, 2004.

Respectfully submitted,

Richard Spink

By Michael R. Schacht
Michael R. Schacht, Reg. No. 33,500
2801 Meridian Street, Suite 202
Bellingham, WA 98225-2412
(360) 647-0400

CERTIFICATE OF MAILING
37 C.F.R. §1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature: Susie Hubka

Print Name: Susie Hubka

Date: 12/22/04